

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

NNENNA LEWIS,

3:11-CV-01546-PK

Plaintiff,

ORDER

v.

ASSET ACCEPTANCE, LLC. and
HARRINGTON, ANDERSON &
DEBLASIO, LLC,

Defendants.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#55) on January 9, 2013, in which he recommends the Court grant Defendants' Motion (#30) for Summary Judgment as to Plaintiff's claim under 15 U.S.C. § 1692f to the extent that claim is premised on the "complained-of conduct of October 3, 2011"; deny Defendants' Motion (#30) for Summary Judgment as to

Plaintiff's claim under 15 U.S.C. § 1692f to the extent that claim is premised on the "complained-of conduct of December 30, 2010"; and deny Plaintiff's Motion (#34) for Partial Summary Judgment against Defendant Harrington, Anderson & Deblasio, LLC (HAD). Defendant filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988).

I. Defendants' Objection to the recommendation to deny summary judgment as to Plaintiff's claims against Defendant Asset Acceptance, LLC

In their Objections Defendants contend the Magistrate Judge erred when he recommended the Court deny Defendants' Motion for Summary Judgment as to Plaintiff's claims against Asset Acceptance, LLC, because Plaintiff failed to respond to Defendants' Motion as to Asset Acceptance. In her Response to Defendants' Objections, Plaintiff agrees summary judgment in favor of Asset Acceptance is appropriate because "the evidence [Plaintiff] gathered in discovery indicates that Defendant HAD is entirely to blame for the . . . acts alleged."

On this record the Court concludes Asset Acceptance is entitled to summary judgment as to Plaintiff's claims against it. Accordingly, the Court declines to adopt that portion of the Findings and Recommendation in which the Magistrate Judge recommends denying Defendants' Motion for Summary Judgment as to Plaintiff's claims against Asset Acceptance and grants Defendants' Motion for Summary Judgment as to those claims.

II. Defendants' remaining Objections

In their remaining Objections Defendants reiterate the arguments contained in their Motion for Summary Judgment, Reply, Response to Plaintiff's Motion for Partial Summary Judgment, and stated at oral argument. This Court has carefully considered Defendants' Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS in part** Magistrate Judge Papak's Findings and Recommendation (#55), and, therefore, the Court

1. **GRANTS** Defendants' Motion (#30) for Summary Judgment as to Plaintiff's claims against Asset Acceptance, LLC;
2. **GRANTS** Defendants' Motion (#30) for Summary Judgment as

to Plaintiff's claim against HAD under 15 U.S.C.

§ 1692f to the extent that claim is premised on the
"complained-of conduct of October 3, 2011";

3. **DENIES** Defendants' Motion (#30) for Summary Judgment as
to Plaintiff's claim against HAD under 15 U.S.C.
§ 1692f to the extent that claim is premised on the
"complained-of conduct of December 30, 2010"; and
4. **DENIES** Plaintiff's Motion (#34) for Partial Summary
Judgment against HAD.

IT IS SO ORDERED.

DATED this 7th day of March, 2013.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge